

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

DIFF SCALE OPERATION RESEARCH,
LLC,

Plaintiff,

v.

CALIX, INC.,

Defendant.

Civil Action No. 2:18-cv-00059-JRG-RSP

FILED UNDER SEAL

**DECLARATION OF DOUG HOWLAND IN SUPPORT OF
DEFENDANT CALIX, INC.'S MOTION TO DISMISS OR TRANSFER**

I, Doug Howland, declare as follows:

1. I am [REDACTED] at Defendant Calix, Inc. ("Calix"). I submit this declaration in support of Calix's motion to dismiss or transfer.
2. Unless otherwise specified, I have personal knowledge of the facts contained herein. If called as a witness to testify, I could and would competently testify to each of the facts set forth herein.
3. I understand that Plaintiff DIFF Scale Operation Research, LLC ("DIFF Scale") has filed a complaint for patent infringement that alleges certain Calix products of infringe patents purported to be owned by or licensed to DIFF Scale.
4. I understand that DIFF Scale has identified the following Calix products as allegedly infringing: E3-48; E3-48C; E3-8G; E5-48; E5-48C; E7-2; E7-20; Calix Management System R14.0 and 14.1; and C7 Multiservice Access System (together, the "Accused Products").

5. I have oversight responsibility over Calix's [REDACTED]

[REDACTED], related to the Accused Products.

6. Within the United States, Calix maintains [REDACTED] facilities in (a) Petaluma, California; (b) San Jose, California; (c) Santa Barbara, California; (d) Minneapolis, Minnesota; and (e) Richardson, Texas. Calix also maintains a main [REDACTED] facility in Nanjing, China.

7. Calix's Petaluma location serves as the company's corporate headquarters and, together with the San Jose location, is the home office of Calix's System Product Management and other high-level management.

8. A majority of Calix's [REDACTED] personnel in the United States are located in the Petaluma and San Jose offices in Northern California. As of January 1, 2018, the two offices employed [REDACTED] full-time [REDACTED] employees, making up approximately [REDACTED] Calix's total domestic, full-time [REDACTED] personnel ([REDACTED]).

9. Calix personnel in Northern California were and are primarily responsible for [REDACTED]

[REDACTED]
[REDACTED] Calix's [REDACTED] and the [REDACTED]
[REDACTED]

10. Accordingly, the individuals most knowledgeable about the operation of the Accused Products are located in Northern California, and it would be disruptive and costly for those individuals to travel to Texas. Such potential witnesses include [REDACTED] Advanced Architecture – Systems Engineer (Petaluma), [REDACTED] Director of Hardware Engineering (Petaluma), and [REDACTED] VP of Products (San Jose).

11. The bulk of Calix's documentation concerning the [REDACTED] of the Accused Products is located in Northern California. Source code related to the Accused Products is maintained in California.

12. At the direction of personnel located in Northern California, Calix's [REDACTED] [REDACTED] resources located in Santa Barbara, California; Minneapolis, Minnesota; and Nanjing, China also contributed to the Accused Products.

13. Calix's only presence in Texas is at 2350 Campbell Creek Boulevard, Richardson, Texas 75082. I am informed and believe that Calix's Richardson office is within Dallas County.

14. At Calix's Richardson, Texas location, Calix personnel are responsible for [REDACTED] [REDACTED] The [REDACTED] performed there is done in support of the research or design activities occurring at other locations.

15. None of the personnel in Richardson are in managerial roles related to research and development. None of the personnel at the Richardson location are responsible for the design of any Accused Products.

16. As of January 1, 2018, Calix employed [REDACTED] research and development personnel in Richardson ([REDACTED] of domestic R&D personnel).

17. Other than the Richardson location, Calix (1) does not own or lease any property in Texas; and (2) does not maintain any warehouses, distribution centers, offices, or other facilities in Texas.

18. Calix's website does not list any facilities in Texas other than the location in Richardson. Nor does Calix post any job listings for positions based in Texas other than those located in Richardson.

19. The E3, E5, and E7 product lines are designed by Calix, but include components that Calix purchases from third-party suppliers. For example, the E3, E5, and E7 products incorporate chipsets supplied by [REDACTED], and [REDACTED]. I understand that [REDACTED] [REDACTED], and [REDACTED] [REDACTED]. I also understand that DIFF Scale has accused [REDACTED] of infringing some of the same patents that Calix has been accused of infringing.

20. Based on my reasonable investigation, including a review of Calix's employment records, I am informed and believe that all of Calix's accounting personnel are located in [REDACTED], including for the Accused Products. No accounting personnel are located in Texas.

21. Based on my reasonable investigation, I am informed and believe that Calix's marketing function is decentralized, with the Chief Marketing Officer based in [REDACTED].

22. Based on my reasonable investigation, I am informed and believe that Calix's sales function was previously based in [REDACTED] but is now headed by remote personnel in [REDACTED] with a concentration of personnel based in the [REDACTED]

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on May 17, 2018 in San Jose, California.



Doug Howland